



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0112

Introduced 1/6/2005, by Rep. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.640 new	
35 ILCS 505/2	from Ch. 120, par. 418
35 ILCS 505/8	from Ch. 120, par. 424
35 ILCS 505/8b new	
625 ILCS 5/12-705.1 new	

Amends the Illinois Vehicle Code and the State Finance Act. Provides that, beginning January 1, 2006, all diesel powered vehicles owned or operated by the State, any county or unit of local government, any school board, or any State College or University must use a blend containing at least 50% biodiesel fuel. Provides that the Department of Transportation shall reimburse those entities one cent for each gallon consumed, to be paid from the Energy Independence Fund, a special fund created in the State treasury. Amends the Motor Fuel Tax Law. Beginning January 1, 2006, increases from 19 cents to 19.1 cents the tax imposed per gallon of motor fuel. Provides that, of the 19.1 cents per gallon tax, the equivalent of one-tenth of one cent per gallon shall be deposited into the Energy Independence Fund. Provides that, subject to appropriation, the Department of Transportation shall use all moneys in that fund for the required reimbursement. Provides that the Secretary of Transportation shall adopt rules for implementing the Vehicle Code provision. Effective immediately.

LRB094 03678 DRH 33683 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding  
5 Section 5.640 as follows:

6 (30 ILCS 105/5.640 new)

7 Sec. 5.640. The Energy Independence Fund.

8 Section 10. The Motor Fuel Tax Law is amended by changing  
9 Sections 2 and 8 and by adding Section 8b as follows:

10 (35 ILCS 505/2) (from Ch. 120, par. 418)

11 Sec. 2. A tax is imposed on the privilege of operating  
12 motor vehicles upon the public highways and recreational-type  
13 watercraft upon the waters of this State.

14 (a) Prior to August 1, 1989, the tax is imposed at the rate  
15 of 13 cents per gallon on all motor fuel used in motor vehicles  
16 operating on the public highways and recreational type  
17 watercraft operating upon the waters of this State. Beginning  
18 on August 1, 1989 and until January 1, 1990, the rate of the  
19 tax imposed in this paragraph shall be 16 cents per gallon.  
20 Beginning January 1, 1990 and until January 1, 2006, the rate  
21 of tax imposed in this paragraph shall be 19 cents per gallon.  
22 Beginning January 1, 2006, the rate of tax imposed in this  
23 paragraph shall be 19.1 cents per gallon.

24 (b) The tax on the privilege of operating motor vehicles  
25 which use diesel fuel shall be the rate according to paragraph  
26 (a) plus an additional 2 1/2 cents per gallon. "Diesel fuel" is  
27 defined as any product intended for use or offered for sale as  
28 a fuel for engines in which the fuel is injected into the  
29 combustion chamber and ignited by pressure without electric  
30 spark.

1 (c) A tax is imposed upon the privilege of engaging in the  
2 business of selling motor fuel as a retailer or reseller on all  
3 motor fuel used in motor vehicles operating on the public  
4 highways and recreational type watercraft operating upon the  
5 waters of this State: (1) at the rate of 3 cents per gallon on  
6 motor fuel owned or possessed by such retailer or reseller at  
7 12:01 a.m. on August 1, 1989; and (2) at the rate of 3 cents per  
8 gallon on motor fuel owned or possessed by such retailer or  
9 reseller at 12:01 A.M. on January 1, 1990.

10 Retailers and resellers who are subject to this additional  
11 tax shall be required to inventory such motor fuel and pay this  
12 additional tax in a manner prescribed by the Department of  
13 Revenue.

14 The tax imposed in this paragraph (c) shall be in addition  
15 to all other taxes imposed by the State of Illinois or any unit  
16 of local government in this State.

17 (d) Except as provided in Section 2a, the collection of a  
18 tax based on gallonage of gasoline used for the propulsion of  
19 any aircraft is prohibited on and after October 1, 1979.

20 (e) The collection of a tax, based on gallonage of all  
21 products commonly or commercially known or sold as 1-K  
22 kerosene, regardless of its classification or uses, is  
23 prohibited (i) on and after July 1, 1992 until December 31,  
24 1999, except when the 1-K kerosene is either: (1) delivered  
25 into bulk storage facilities of a bulk user, or (2) delivered  
26 directly into the fuel supply tanks of motor vehicles and (ii)  
27 on and after January 1, 2000. Beginning on January 1, 2000, the  
28 collection of a tax, based on gallonage of all products  
29 commonly or commercially known or sold as 1-K kerosene,  
30 regardless of its classification or uses, is prohibited except  
31 when the 1-K kerosene is delivered directly into a storage tank  
32 that is located at a facility that has withdrawal facilities  
33 that are readily accessible to and are capable of dispensing  
34 1-K kerosene into the fuel supply tanks of motor vehicles.

35 Any person who sells or uses 1-K kerosene for use in motor  
36 vehicles upon which the tax imposed by this Law has not been

1 paid shall be liable for any tax due on the sales or use of 1-K  
2 kerosene.

3 (Source: P.A. 93-17, eff. 6-11-03.)

4 (35 ILCS 505/8) (from Ch. 120, par. 424)

5 Sec. 8. Except as provided in Sections ~~Section~~ 8a and 8b,  
6 subdivision (h) (1) of Section 12a, Section 13a.6, and items 13,  
7 14, 15, and 16 of Section 15, all money received by the  
8 Department under this Act, including payments made to the  
9 Department by member jurisdictions participating in the  
10 International Fuel Tax Agreement, shall be deposited in a  
11 special fund in the State treasury, to be known as the "Motor  
12 Fuel Tax Fund", and shall be used as follows:

13 (a) 2 1/2 cents per gallon of the tax collected on special  
14 fuel under paragraph (b) of Section 2 and Section 13a of this  
15 Act shall be transferred to the State Construction Account Fund  
16 in the State Treasury;

17 (b) \$420,000 shall be transferred each month to the State  
18 Boating Act Fund to be used by the Department of Natural  
19 Resources for the purposes specified in Article X of the Boat  
20 Registration and Safety Act;

21 (c) \$2,250,000 shall be transferred each month to the Grade  
22 Crossing Protection Fund to be used as follows: not less than  
23 \$6,000,000 each fiscal year shall be used for the construction  
24 or reconstruction of rail highway grade separation structures;  
25 \$2,250,000 in fiscal year 2004 and each fiscal year thereafter  
26 shall be transferred to the Transportation Regulatory Fund and  
27 shall be accounted for as part of the rail carrier portion of  
28 such funds and shall be used to pay the cost of administration  
29 of the Illinois Commerce Commission's railroad safety program  
30 in connection with its duties under subsection (3) of Section  
31 18c-7401 of the Illinois Vehicle Code, with the remainder to be  
32 used by the Department of Transportation upon order of the  
33 Illinois Commerce Commission, to pay that part of the cost  
34 apportioned by such Commission to the State to cover the  
35 interest of the public in the use of highways, roads, streets,

1 or pedestrian walkways in the county highway system, township  
2 and district road system, or municipal street system as defined  
3 in the Illinois Highway Code, as the same may from time to time  
4 be amended, for separation of grades, for installation,  
5 construction or reconstruction of crossing protection or  
6 reconstruction, alteration, relocation including construction  
7 or improvement of any existing highway necessary for access to  
8 property or improvement of any grade crossing including the  
9 necessary highway approaches thereto of any railroad across the  
10 highway or public road, or for the installation, construction,  
11 reconstruction, or maintenance of a pedestrian walkway over or  
12 under a railroad right-of-way, as provided for in and in  
13 accordance with Section 18c-7401 of the Illinois Vehicle Code.  
14 The Commission shall not order more than \$2,000,000 per year in  
15 Grade Crossing Protection Fund moneys for pedestrian walkways.  
16 In entering orders for projects for which payments from the  
17 Grade Crossing Protection Fund will be made, the Commission  
18 shall account for expenditures authorized by the orders on a  
19 cash rather than an accrual basis. For purposes of this  
20 requirement an "accrual basis" assumes that the total cost of  
21 the project is expended in the fiscal year in which the order  
22 is entered, while a "cash basis" allocates the cost of the  
23 project among fiscal years as expenditures are actually made.  
24 To meet the requirements of this subsection, the Illinois  
25 Commerce Commission shall develop annual and 5-year project  
26 plans of rail crossing capital improvements that will be paid  
27 for with moneys from the Grade Crossing Protection Fund. The  
28 annual project plan shall identify projects for the succeeding  
29 fiscal year and the 5-year project plan shall identify projects  
30 for the 5 directly succeeding fiscal years. The Commission  
31 shall submit the annual and 5-year project plans for this Fund  
32 to the Governor, the President of the Senate, the Senate  
33 Minority Leader, the Speaker of the House of Representatives,  
34 and the Minority Leader of the House of Representatives on the  
35 first Wednesday in April of each year;

36 (d) of the amount remaining after allocations provided for

1 in subsections (a), (b) and (c), a sufficient amount shall be  
2 reserved to pay all of the following:

3 (1) the costs of the Department of Revenue in  
4 administering this Act;

5 (2) the costs of the Department of Transportation in  
6 performing its duties imposed by the Illinois Highway Code  
7 for supervising the use of motor fuel tax funds apportioned  
8 to municipalities, counties and road districts;

9 (3) refunds provided for in Section 13 of this Act and  
10 under the terms of the International Fuel Tax Agreement  
11 referenced in Section 14a;

12 (4) from October 1, 1985 until June 30, 1994, the  
13 administration of the Vehicle Emissions Inspection Law,  
14 which amount shall be certified monthly by the  
15 Environmental Protection Agency to the State Comptroller  
16 and shall promptly be transferred by the State Comptroller  
17 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
18 Inspection Fund, and for the period July 1, 1994 through  
19 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
20 the period July 1, 2000 through June 30, 2003, one-twelfth  
21 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,  
22 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each  
23 July 1 and October 1, or as soon thereafter as may be  
24 practical, during the period July 1, 2004 through June 30,  
25 2006, for the administration of the Vehicle Emissions  
26 Inspection Law of 1995, to be transferred by the State  
27 Comptroller and Treasurer from the Motor Fuel Tax Fund into  
28 the Vehicle Inspection Fund;

29 (5) amounts ordered paid by the Court of Claims; and

30 (6) payment of motor fuel use taxes due to member  
31 jurisdictions under the terms of the International Fuel Tax  
32 Agreement. The Department shall certify these amounts to  
33 the Comptroller by the 15th day of each month; the  
34 Comptroller shall cause orders to be drawn for such  
35 amounts, and the Treasurer shall administer those amounts  
36 on or before the last day of each month;

1 (e) after allocations for the purposes set forth in  
2 subsections (a), (b), (c) and (d), the remaining amount shall  
3 be apportioned as follows:

4 (1) Until January 1, 2000, 58.4%, and beginning January  
5 1, 2000, 45.6% shall be deposited as follows:

6 (A) 37% into the State Construction Account Fund,  
7 and

8 (B) 63% into the Road Fund, \$1,250,000 of which  
9 shall be reserved each month for the Department of  
10 Transportation to be used in accordance with the  
11 provisions of Sections 6-901 through 6-906 of the  
12 Illinois Highway Code;

13 (2) Until January 1, 2000, 41.6%, and beginning January  
14 1, 2000, 54.4% shall be transferred to the Department of  
15 Transportation to be distributed as follows:

16 (A) 49.10% to the municipalities of the State,

17 (B) 16.74% to the counties of the State having  
18 1,000,000 or more inhabitants,

19 (C) 18.27% to the counties of the State having less  
20 than 1,000,000 inhabitants,

21 (D) 15.89% to the road districts of the State.

22 As soon as may be after the first day of each month the  
23 Department of Transportation shall allot to each municipality  
24 its share of the amount apportioned to the several  
25 municipalities which shall be in proportion to the population  
26 of such municipalities as determined by the last preceding  
27 municipal census if conducted by the Federal Government or  
28 Federal census. If territory is annexed to any municipality  
29 subsequent to the time of the last preceding census the  
30 corporate authorities of such municipality may cause a census  
31 to be taken of such annexed territory and the population so  
32 ascertained for such territory shall be added to the population  
33 of the municipality as determined by the last preceding census  
34 for the purpose of determining the allotment for that  
35 municipality. If the population of any municipality was not  
36 determined by the last Federal census preceding any

1 apportionment, the apportionment to such municipality shall be  
2 in accordance with any census taken by such municipality. Any  
3 municipal census used in accordance with this Section shall be  
4 certified to the Department of Transportation by the clerk of  
5 such municipality, and the accuracy thereof shall be subject to  
6 approval of the Department which may make such corrections as  
7 it ascertains to be necessary.

8 As soon as may be after the first day of each month the  
9 Department of Transportation shall allot to each county its  
10 share of the amount apportioned to the several counties of the  
11 State as herein provided. Each allotment to the several  
12 counties having less than 1,000,000 inhabitants shall be in  
13 proportion to the amount of motor vehicle license fees received  
14 from the residents of such counties, respectively, during the  
15 preceding calendar year. The Secretary of State shall, on or  
16 before April 15 of each year, transmit to the Department of  
17 Transportation a full and complete report showing the amount of  
18 motor vehicle license fees received from the residents of each  
19 county, respectively, during the preceding calendar year. The  
20 Department of Transportation shall, each month, use for  
21 allotment purposes the last such report received from the  
22 Secretary of State.

23 As soon as may be after the first day of each month, the  
24 Department of Transportation shall allot to the several  
25 counties their share of the amount apportioned for the use of  
26 road districts. The allotment shall be apportioned among the  
27 several counties in the State in the proportion which the total  
28 mileage of township or district roads in the respective  
29 counties bears to the total mileage of all township and  
30 district roads in the State. Funds allotted to the respective  
31 counties for the use of road districts therein shall be  
32 allocated to the several road districts in the county in the  
33 proportion which the total mileage of such township or district  
34 roads in the respective road districts bears to the total  
35 mileage of all such township or district roads in the county.  
36 After July 1 of any year, no allocation shall be made for any

1 road district unless it levied a tax for road and bridge  
2 purposes in an amount which will require the extension of such  
3 tax against the taxable property in any such road district at a  
4 rate of not less than either .08% of the value thereof, based  
5 upon the assessment for the year immediately prior to the year  
6 in which such tax was levied and as equalized by the Department  
7 of Revenue or, in DuPage County, an amount equal to or greater  
8 than \$12,000 per mile of road under the jurisdiction of the  
9 road district, whichever is less. If any road district has  
10 levied a special tax for road purposes pursuant to Sections  
11 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such  
12 tax was levied in an amount which would require extension at a  
13 rate of not less than .08% of the value of the taxable property  
14 thereof, as equalized or assessed by the Department of Revenue,  
15 or, in DuPage County, an amount equal to or greater than  
16 \$12,000 per mile of road under the jurisdiction of the road  
17 district, whichever is less, such levy shall, however, be  
18 deemed a proper compliance with this Section and shall qualify  
19 such road district for an allotment under this Section. If a  
20 township has transferred to the road and bridge fund money  
21 which, when added to the amount of any tax levy of the road  
22 district would be the equivalent of a tax levy requiring  
23 extension at a rate of at least .08%, or, in DuPage County, an  
24 amount equal to or greater than \$12,000 per mile of road under  
25 the jurisdiction of the road district, whichever is less, such  
26 transfer, together with any such tax levy, shall be deemed a  
27 proper compliance with this Section and shall qualify the road  
28 district for an allotment under this Section.

29 In counties in which a property tax extension limitation is  
30 imposed under the Property Tax Extension Limitation Law, road  
31 districts may retain their entitlement to a motor fuel tax  
32 allotment if, at the time the property tax extension limitation  
33 was imposed, the road district was levying a road and bridge  
34 tax at a rate sufficient to entitle it to a motor fuel tax  
35 allotment and continues to levy the maximum allowable amount  
36 after the imposition of the property tax extension limitation.

1 Any road district may in all circumstances retain its  
2 entitlement to a motor fuel tax allotment if it levied a road  
3 and bridge tax in an amount that will require the extension of  
4 the tax against the taxable property in the road district at a  
5 rate of not less than 0.08% of the assessed value of the  
6 property, based upon the assessment for the year immediately  
7 preceding the year in which the tax was levied and as equalized  
8 by the Department of Revenue or, in DuPage County, an amount  
9 equal to or greater than \$12,000 per mile of road under the  
10 jurisdiction of the road district, whichever is less.

11 As used in this Section the term "road district" means any  
12 road district, including a county unit road district, provided  
13 for by the Illinois Highway Code; and the term "township or  
14 district road" means any road in the township and district road  
15 system as defined in the Illinois Highway Code. For the  
16 purposes of this Section, "road district" also includes park  
17 districts, forest preserve districts and conservation  
18 districts organized under Illinois law and "township or  
19 district road" also includes such roads as are maintained by  
20 park districts, forest preserve districts and conservation  
21 districts. The Department of Transportation shall determine  
22 the mileage of all township and district roads for the purposes  
23 of making allotments and allocations of motor fuel tax funds  
24 for use in road districts.

25 Payment of motor fuel tax moneys to municipalities and  
26 counties shall be made as soon as possible after the allotment  
27 is made. The treasurer of the municipality or county may invest  
28 these funds until their use is required and the interest earned  
29 by these investments shall be limited to the same uses as the  
30 principal funds.

31 (Source: P.A. 92-16, eff. 6-28-01; 92-30, eff. 7-1-01; 93-32,  
32 eff. 6-20-03; 93-839, eff. 7-30-04.)

33 (35 ILCS 505/8b new)

34 Sec. 8b. Deposit of receipts from tax on fuel; biodiesel  
35 use reimbursement. Of the moneys received by the Department

1 under subsection (a) of Section 2 of this Act, 0.524% shall be  
2 deposited into the Energy Independence Fund.

3 Section 15. The Illinois Vehicle Code is amended by adding  
4 Section 12-705.1 as follows:

5 (625 ILCS 5/12-705.1 new)

6 Sec. 12-705.1. Required use of biodiesel by certain  
7 vehicles.

8 (a) Beginning January 1, 2006, any diesel powered vehicle  
9 owned or operated by this State, any county or unit of local  
10 government, any school board, or any State College or  
11 University must use a biodiesel blend that contains no less  
12 than 50% biodiesel, as those terms are defined in the Illinois  
13 Renewable Fuels Development Program Act.

14 (b) For each gallon of 50% biodiesel blend consumed by any  
15 diesel vehicle owned or operated by an entity described in  
16 subsection (a) of this Section, the Department of  
17 Transportation shall reimburse that entity one cent, which is  
18 to be drawn from the Energy Independence Fund.

19 (c) The Energy Independence Fund is created as a special  
20 fund in the State treasury. The Department of Transportation  
21 shall deposit moneys into the Energy Independence Fund in  
22 accordance with Section 8b of the Motor Fuel Tax Law. The  
23 Department shall, subject to appropriation, use all moneys in  
24 the Energy Independence Fund for reimbursement as provided in  
25 subsection (b) of this Section.

26 (d) The Secretary of Transportation shall adopt rules for  
27 implementing this Section.

28 Section 99. Effective date. This Act takes effect upon  
29 becoming law.